

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONDELL EARL VIRGIL,

Plaintiff,

v.

CDCR, *et al.*,

Defendants.

Case No. 2:20-cv-01373-JAM-JDP (PC)

FINDINGS AND RECOMMENDATIONS
THAT THIS ACTION BE DISMISSED FOR
FAILURE TO PROSECUTE, FAILURE TO
COMPLY WITH COURT ORDERS, AND
FAILURE TO STATE A CLAIM

OBJECTIONS DUE WITHIN FOURTEEN
DAYS

On April 20, 2021, I screened plaintiff's first amended complaint pursuant to 28 U.S.C. § 1915A. ECF No. 20. I notified plaintiff that it failed state a claim and granted him sixty days to file an amended complaint. *Id.* Plaintiff subsequently requested, and I granted, two sixty-day extensions to file a second amended complaint. ECF Nos. 21-24. Despite those extensions, plaintiff failed to timely file an amended complaint. Accordingly, on November 8, 2021, I ordered him to show cause within twenty-one days why this action should not be dismissed for both failure to prosecute and failure to state a claim. ECF No. 25. I notified him that if he wished to continue with this lawsuit, he would need to file an amended complaint. I also warned him that failure to comply with the November 8 order would result in a recommendation that this action be dismissed.¹ *Id.*

¹ Although it appears from the file that plaintiff's copy of the November 8, 2021, order was returned, plaintiff was properly served. Pursuant to Local Rule 182(f), service of documents

1 The deadline has passed, and plaintiff has not filed an amended complaint nor otherwise
2 responded to the November 8, 2021, order. Accordingly, it is hereby RECOMMENDED that:

3 1. This action be dismissed for failure to prosecute, failure to comply with court orders,
4 and failure to state a claim for the reasons set forth in the April 20, 2021, order. *See* ECF No. 20.

5 2. The Clerk of Court be directed to close the case.

6 These findings and recommendations are submitted to the United States District Judge
7 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
8 after being served with these findings and recommendations, any party may file written
9 objections with the court and serve a copy on all parties. Such a document should be captioned
10 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the
11 objections shall be served and filed within fourteen days after service of the objections. The
12 parties are advised that failure to file objections within the specified time may waive the right to
13 appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*
14 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

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16 IT IS SO ORDERED.

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18 Dated: February 2, 2022


19 JEREMY D. PETERSON
20 UNITED STATES MAGISTRATE JUDGE
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at the record address of the party is fully effective.